

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JAMIE SAWYER, in his capacity as  
Personal Representative for the Estate of  
KAYLEE A. SAWYER; JAMIE SAWYER;  
JULI VAN CLEAVE; CRYSTAL SAWYER;  
and CHRIS VAN CLEAVE,

Plaintiffs,

v.

CENTRAL OREGON COMMUNITY  
COLLEGE, an Oregon community college;  
SHIRLEY METCALF, PHD, an individual;  
MATTHEW MCCOY, an individual; JAMES  
BENNETT, an individual; and EDWIN E.  
LARA, an individual,

Defendants.

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Case No. 6:17-cv-1150-JR

**OPINION AND ORDER**

**MCSHANE, Judge:**

Magistrate Judge Jolie A. Russo filed a Findings and Recommendation (“F&R”), ECF No. 32, and the matter is now before this Court. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b). Defendants and Plaintiffs timely filed objections to the F&R. ECF No. 38 and 39. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). I find no error and conclude that the F&R is correct. Judge Russo’s F&R is adopted in full. Consistent with Judge Russo’s F&R, Defendants’ motion to dismiss is therefore GRANTED in part and DENIED in part as follows:

1. Defendants' motion to dismiss the first claim for relief against Defendant Central Oregon Community College is GRANTED;
2. Defendants' motion to dismiss the first and third claims for relief against Defendants Shirley Metcalf, Matthew McCoy, and James Bennett is DENIED;
3. Defendants' motion to dismiss the second claim for relief is GRANTED, with leave for Plaintiffs to amend;
4. Defendants' motion to dismiss the fourth through eleventh claims for relief is DENIED, but the allegations related to damages for death in those claims are stricken;
5. Defendants' motion to dismiss the eleventh claim for relief is GRANTED, with leave for Plaintiffs to amend to assert an alternative claim against Defendant Lara; and
6. Defendants' motion to make more definite and certain the allegations of damages and scope of employment is DENIED.

IT IS SO ORDERED.

DATED this 11th day of June, 2018.

/s/ Michael McShane  
Michael J. McShane  
United States District Judge